IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

C.A. No.2249/2007 in Writ Petition No.4769/2006
(Mrs. Linata Milind Kulkarni Vs. Mr. Milind Shridhar Kulkarni)

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. : Court's or Judge's orders

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CORAM : A.P. Lavande, J.
Dated : 29.6.2007.

Heard the applicant in person and Advocate Moharir, learned counsel for the respondent.

By this application, the applicant seeks clarification of judgment dated 13.3.2007 passed by this Court in Writ Petition 4769/2006.

This Court by judgment dated 13.3.2007 set aside the order dated 4th July, 2006 passed by the Civil Judge, Sr. Dn. Akola on the application (Exh. 43) filed by the petitioner in Regular Civil Suit No.376/2004. By the judgment dated 13.3.2007 this Court set aside the order and remanded the matter back and, inter alia, directed the trial Court to dispose of the application after hearing the parties expeditiously within a period of two weeks from

the date the parties appeared before the Court.

The applicant who appears in person submitted that she had not granted consent for hearing the other side and as such the following statement made in the application is incorrect:-

"Rule – by consent heard forthwith.

Heard petitioner in person and Mr. Moharir learned Counsel for the respondent."

The applicant who appears to be not conversant with the legal procedure and niceties of law has contended that she has not given consent for hearing the other side. Obviously the statement refers to consent for final disposal of the petition at the admission stage and not to the consent of the applicant. Hence, no clarification is required on this aspect.

The second clarification which is sought by the applicant is whether learned Judge has to decide application (Ex.43) on the basis of say already given by the respondent or whether further opportunity must be given for filing additional documents and whether learned Judge should hear the parties afresh. In this regard it is made clear that learned Judge shall

decide the application after considering the say already filed by the respondent and after hearing both the parties and the question of giving further opportunity for filing additional documents/replies to either party insofar as the said application is concerned does not arise.

The application is disposed of in the aforesaid terms. No order as to costs.

JUDGE

A.